

EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SONOS, INC.,

Plaintiff,

vs.

GOOGLE LLC,

Defendant.

Case No. 6:20-cv-00881-ADA

**SONOS, INC.'S RESPONSES AND OBJECTIONS TO GOOGLE LLC'S FIRST SET OF
REQUESTS FOR PRODUCTION REGARDING CLAIM CONSTRUCTION**

Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiff Sonos, Inc. ("Plaintiff" or "Sonos") hereby responds to Defendant Google LLC's ("Plaintiff" or "Google") First Set of Requests for Production to Sonos Regarding Claim Construction.

Sonos's responses herein are based solely on information that, at the time of these responses, is available to and has been reviewed by Sonos after reasonable investigation. Investigation and discovery are ongoing. Sonos reserves all rights to supplement, revise, and/or amend these responses should additional information become available through the discovery process and/or other means. Sonos also reserves the right to produce or use any information or documents that are discovered after service of these responses in support of or in opposition to any motion, in depositions, and/or in hearings. In responding to Google's Requests, Sonos does not waive any objection on the grounds of privilege, competency, relevance, materiality, authenticity, and/or admissibility of information contained in any documents identified in response to the Requests and a response that Sonos will conduct a reasonable search and produce responsive, non-

privileged documents in its possession, custody, or control does not indicate that such documents will be located or exist.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. These objections are in addition to objections set forth separately in response to individual requests and are incorporated in response to each individual request, whether or not they are separately stated therein.
2. Sonos objects to Google's definition of "Plaintiff," "You," "Sonos," and "Your" as rendering the requests in which they appear overly broad, unduly burdensome, irrelevant and calling for the production of information not within Sonos's possession, custody, or control because they make references to people and entities which are not currently employees of or otherwise under Sonos's control. Sonos will interpret "Plaintiff," "You," "Sonos," and "Your" as referring to Sonos, Inc. along with its current employees and officers.

REQUESTS FOR PRODUCTION REGARDING CLAIM CONSTRUCTION

REQUEST FOR PRODUCTION NO. 1:

The prosecution histories of the Asserted Patents or any Related Patent, including but not limited to, applications, office actions, and cited or submitted non-U.S. patent prior art.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Sonos objects to this request to the extent that the information sought is available from a public source as to which the burden of obtaining such information is the same for Google as it would be for Sonos.

Sonos further objects to this request as beyond the scope of permissible discovery because it is not relevant to Plaintiff's claims or defenses nor likely to lead to discovery of admissible evidence insofar as it requests information about patents that are not at issue in this case.

In light of these objections, Sonos has produced the prosecution histories of the Asserted Patents at SONOS-SVG2-00000001 - SONOS-SVG2-00000754, SONOS-SVG2-00001167 - SONOS-SVG2-00004215, SONOS-SVG2-00004216 - SONOS-SVG2-00006558, SONOS-SVG2-00006559 - SONOS-SVG2-00011279, SONOS-SVG2-00011280 - SONOS-SVG2-00017989.

REQUEST FOR PRODUCTION NO. 2:

All documents relating to claim construction proceedings for the Asserted Patents or Related Patents including, without limitation, pleadings, motions, briefs, declarations, affidavits, exhibits, expert reports and materials, transcripts, testimony, tutorials, and ruling or orders.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Sonos objects to this request to the extent that it seeks documents protected by the attorney-client privilege or work-product doctrine or any other privilege (“Privileged Information”).

Sonos further objects to this request to the extent that it seeks the production of confidential documents that are subject to the Protective Order entered in *In re Certain Audio Players and Controllers, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-1191 (hereinafter, “*Certain Audio Players*”).

Sonos further objects to this request as overbroad, unduly burdensome, and not proportional to the needs of the case insofar as it: (a) is not limited to the specific claim terms of the Asserted Patents identified for construction in this Action; and (b) purports to seek “all” documents relating to claim construction proceedings for the Asserted Patents or Related Patents.

In light of these objections, Sonos has produced public, non-privileged documents sufficient to show how the identified claim terms of the Asserted Patents were construed in prior proceedings at SONOS-SVG2-00017990 - SONOS-SVG2-00018014, SONOS-SVG2-00018184 - SONOS-SVG2-00018236, SONOS-SVG2-00018339 - SONOS-SVG2-00018362, SONOS-SVG2-00018363 - SONOS-SVG2-00018364, SONOS-SVG2-00018370 - SONOS-SVG2-00018401, SONOS-SVG2-00018843 - SONOS-SVG2-00019122. Sonos is willing to meet and confer with Google regarding the production of CBI documents from *Certain Audio Players*.

REQUEST FOR PRODUCTION NO. 3:

Testimony of the named inventors or prosecuting attorneys of the Asserted Patents or any Related Patent, whether by way of deposition, trial, affidavit or otherwise.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Sonos objects to this request to the extent that it seeks the production of confidential

documents that are subject to the Protective Order entered in *Certain Audio Players*.

Sonos further objects to this request as overbroad, unduly burdensome, and not proportional to the needs of the case insofar as it is not limited to: (a) testimony concerning claim construction of the Asserted Patents; or (b) testimony concerning the specific claim terms of the Asserted Patents identified for construction in this Action.

In light of these objections, Sonos has produced public, non-privileged documents sufficient to show how the identified claim terms of the Asserted Patents were construed in prior proceedings at SONOS-SVG2-00017990 - SONOS-SVG2-00018014, SONOS-SVG2-00018184 - SONOS-SVG2-00018236, SONOS-SVG2-00018339 - SONOS-SVG2-00018362, SONOS-SVG2-00018363 - SONOS-SVG2-00018364, SONOS-SVG2-00018370 - SONOS-SVG2-00018401, SONOS-SVG2-00018843 - SONOS-SVG2-00019122. Sonos is willing to meet and confer with Google regarding the production of CBI documents from *Certain Audio Players*.

REQUEST FOR PRODUCTION NO. 4:

All claim construction disclosures or proceedings in *Sonos, Inc. v. D&M Holdings, Inc. et al.*, Case No. 14-1330-WCB (D. Del.) and *D&M Holdings, Inc., et al. v. Sonos, Inc.*, 1:16-cv-00141-RGA (D. Del.) including, but not limited to pleadings, motions, briefs, declarations, affidavits, exhibits, expert reports and materials, transcripts, testimony, tutorials and rulings or orders relating thereto.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Sonos objects to this request to the extent that it seeks Privileged Information.

Sonos further objects to this request as overbroad, unduly burdensome, and not proportional to the needs of the case insofar as it: (a) is not limited to disclosures or proceedings concerning the specific claim terms of the Asserted Patents identified for construction in this

Action; and (b) purports to seek “all” claim construction disclosures or proceedings in the *D&M Holdings* litigations.

Sonos further objects to this request to the extent that the information sought is available from a public source.

In light of these objections, Sonos has produced public, non-privileged documents sufficient to show how the identified claim terms of the Asserted Patents were construed in prior proceedings at SONOS-SVG2-00017990 - SONOS-SVG2-00018014, SONOS-SVG2-00018339 - SONOS-SVG2-00018362, SONOS-SVG2-00018363 - SONOS-SVG2-00018364, SONOS-SVG2-00018370 - SONOS-SVG2-00018401.

REQUEST FOR PRODUCTION NO. 5:

All claim construction disclosures or proceedings in *In re Certain Audio Players and Controllers, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-1191 including but not limited to pleadings, motions, briefs, declarations, affidavits, exhibits, expert reports and materials, transcripts, testimony, tutorials and rulings or orders relating thereto.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Sonos objects to this request to the extent that it seeks Privileged Information.

Sonos further objects to this request to the extent that it seeks the production of confidential documents that are subject to the Protective Order entered in *Certain Audio Players*.

Sonos further objects to this request as overbroad, unduly burdensome, and not proportional to the needs of the case insofar as it purports to seek “all” claim construction disclosures or proceedings from *Certain Audio Players*.

Sonos further objects to this request to the extent that it seeks documents that are already in Google’s possession or available from a public source as to which the burden of obtaining such

information is the same for Google as it would be for Sonos.

In light of these objections, Sonos has produced public, non-privileged documents sufficient to show how the identified claim terms of the Asserted Patents were construed in prior proceedings at SONOS-SVG2-00018184 - SONOS-SVG2-00018236, SONOS-SVG2-00018843 - SONOS-SVG2-00019122. Sonos is willing to meet and confer with Google regarding the production of CBI documents from *Certain Audio Players*.

REQUEST FOR PRODUCTION NO. 6:

All documents submitted or disclosed in prior litigation or prosecution of the Asserted Patents or Related Patents relating to the meaning or scope of any of any claim term of the asserted claims of the Asserted Patents, including but not limited to any of the terms identified by the parties for construction. For example, if Sonos opined on the meaning or scope of a claim term outside of the context of claim construction proceedings, this request for production would include documents submitted, exchanged or received by Sonos relating to that dispute.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Sonos objects to this request to the extent that it seeks Privileged Information.

Sonos further objects to this request to the extent that it seeks the production of confidential documents that are subject to the Protective Order entered in *Certain Audio Players*.

Sonos further objects to this request as overbroad, unduly burdensome, and not proportional to the needs of the case insofar as it: (a) is not limited to the specific claim terms of the Asserted Patents identified for construction in this Action; (b) purports to seek “all” documents submitted or disclosed in prior litigation or prosecution of the Asserted Patents or Related Patents relating to the meaning or scope of any claim term of the asserted claims of the Asserted Patents; and (c) purports to seek the production of documents that are outside the context of claim

construction proceedings.

In light of these objections, Sonos has produced the prosecution histories of the Asserted Patents, as well as public, non-privileged documents sufficient to show how the identified claim terms of the Asserted Patents were construed in prior proceedings at SONOS-SVG2-00000001 - SONOS-SVG2-00000754, SONOS-SVG2-00001167 - SONOS-SVG2-00004215, SONOS-SVG2-00004216 - SONOS-SVG2-00006558, SONOS-SVG2-00006559 - SONOS-SVG2-00011279, SONOS-SVG2-00011280 - SONOS-SVG2-00017989, SONOS-SVG2-00017990 - SONOS-SVG2-00018014, SONOS-SVG2-00018184 - SONOS-SVG2-00018236, SONOS-SVG2-00018339 - SONOS-SVG2-00018362, SONOS-SVG2-00018363 - SONOS-SVG2-00018364, SONOS-SVG2-00018370 - SONOS-SVG2-00018401, SONOS-SVG2-00018843 - SONOS-SVG2-00019122. Sonos is willing to meet and confer with Google regarding the production of CBI documents from *Certain Audio Players*.

REQUEST FOR PRODUCTION NO. 7:

All documents that reflect, refer to, or relate to the alleged conception, alleged diligence from conception to reduction to practice, and any actual reduction to practice of the alleged inventions shown, described, and claimed in the Asserted Patents or any Related Patent, including inventor notes and any communications with Third Parties relating to any of the alleged inventions claimed in the Asserted Patents or any Related Patent and/or each purported inventor's individual contributions thereto.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Sonos objects to this request to the extent that it seeks Privileged Information.

Sonos further objects to this request to the extent that it seeks the production of confidential documents that are subject to the Protective Order entered in *Certain Audio Players*.

Sonos further objects to this request as improper merits discovery.

Sonos further objects to this request as overbroad, unduly burdensome, and not proportional to the needs of the case insofar as it purports to seek “all” documents that reflect, refer to, or relate to the conception, diligence, and reduction to practice of the inventions described and claimed in the Asserted Patents or any Related Patent.

Sonos further objects to this request to the extent that it requires Sonos to produce documents in violation of a legal or contractual obligation of nondisclosure or confidentiality to a third party.

In light of these objections, Sonos will not produce documents in response to this request.

Dated: April 30, 2021

ORRICK, HERRINGTON & SUTCLIFFE LLP

BY: /s/ Alyssa Caridis

Jeffrey Johnson, Bar No. 24029638
jj@orrick.com
609 Main Street, 40th Floor
Houston, TX 77002
Telephone: +1 713 658 6400
Facsimile: +1 713 658 6401

Clement Seth Roberts
croberts@orrick.com
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Telephone: +1 415 773 5700
Facsimile: +1 415 773 5759

Alyssa Caridis
acaridis@orrick.com
777 South Figueroa Street, Suite 3200
Los Angeles, CA 90017
Telephone: +1 213 612 2362
Facsimile: +1 213 612 2499

Bas de Blank
basdeblank@orrick.com
1000 Marsh Blvd.
Menlo Park, CA 94025
Telephone: +1 650 614 7343
Facsimile: +1 650 614 7401

Kristina D. McKenna
kmckenna@orrick.com
222 Berkeley Street, Suite 2000
Boston, MA 02116
Telephone: +1 617 880 1800
Facsimile: +1 617 880 1801

George I. Lee
lee@ls3ip.com
Sean M. Sullivan
sullivan@ls3ip.com
Rory P. Shea
shea@ls3ip.com

J. Dan Smith
smith@ls3ip.com
Lee Sullivan Shea & Smith LLP
656 W. Randolph Street, Floor 5W
Chicago, IL 60661
Telephone: +1 312 754 9602
Facsimile: +1 312 754 9603

Mark D. Siegmund
Law Firm of Walt Fair, PLLC
1508 North Valley Mills Drive
Waco, Texas 76710
Telephone: (254) 772-6400
Facsimile: (254) 772-6432

Attorneys for Plaintiff Sonos, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that on April 30, 2021, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via email.

/s/ Kristina D. McKenna
Kristina D. McKenna